

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

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CONCORD, NEW HAMPSHIRE 03301-6397

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June 24, 2005

Section 5 Submission

Chief, Voting Section
Civil Rights Division
Room 7254 – NWB
Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20006

Re: Submission Under Section 5 of the Voting Rights Act for:

New Hampshire Revised Statute Annotated ("RSA") 658:29, a STATUTE that modifies the list of statutes that must be posted outside the guardrail in polling places, most recently amended by Laws of 2005 Chapter 111 and previously amended by the chapters cited below.

Dear Voting Section Chief:

Pursuant to 42 U.S.C. § 1973 (c), the State of New Hampshire, through the Office of the New Hampshire Attorney General, hereby submits RSA 658:29, a STATUTE that modifies the list of statutes that must be posted outside the guardrail in polling places, most recently amended by Laws of 2005 Chapter 111 and previously amended by the chapters cited below.

SUBMISSION

In accordance with 28 C.F.R. § 51.27, the submission is as follows:

- a) Chapter 111 (2005) amending RSA 658:29 is attached (Exhibit 658:29 A)
 - 1. Chapter 151 (2003) amending RSA 658:29 is attached (Exhibit 658:29 B)

2. Chapter 28 (2003) amending RSA 658:29 is attached (Exhibit 658:29 C)
- b) Chapter 436 (1979) recodified as RSA 658:29 is attached (Exhibit 658:29 D)
 - c) The changes made by amendments to RSA 658:29 are as follows:
 1. Chapter 111 (2005) added the phrase “*at all elections*” following the word “*place*” in the first sentence and removed references to “*RSA 654:68; RSA 654:39; RSA 658:29*” and “*RSA 665:17*” and “*RSA 666:12*” while adding references to “*RSA 659:34, RSA 659:35, RSA 659:37, RSA 659:38, RSA 659:40, RSA 659:41,*”.
 2. Chapter 151 (2003) inserted “*RSA 665:17;*” following “*RSA 659:103;*” in the first sentence.
 3. Chapter 28 (2003) substituted “*RSA 654:7-a, RSA 654:7-b, RSA 654:38, RSA 654:39, RSA 658:29, RSA 659:27, RSA 659:30, RSA 659:31, RSA 659:32, RSA 659:103, RSA 666:4, RSA 666:5, RSA 666:8, RSA 666:12*” for “*RSA 654:38, 39; RSA 658:29; RSA 659:27, 30, 31, 32, 103; RSA 665:15; RSA 666:4, 5, 8, 9, 10, 11, 12*” in first sentence and added the phrase “*In addition, the secretary of state shall include any other statutes or regulations that are required to be posted by state or federal law. The secretary of state may also include statutes or regulations that, in the secretary of state’s judgment, would aid a voter in casting a vote or in contacting the appropriate official if the voter believes that his or her voting rights are being violated.*”
 - d) This submission is made by: Senior Assistant Attorney General Orville B. Fitch II, 33 Capitol Street, Concord, New Hampshire 03301, Phone: (603) 271-1238.
 - e) The submitting authority is New Hampshire Attorney General, Kelly A. Ayotte for the State of New Hampshire.
 - f) Not applicable.
 - g) The changes for which pre-clearance is sought were made by a decision of the New Hampshire General Court (Legislature).
 - h) In accordance with Amendment X of the U.S. Constitution, the New Hampshire General Court, the State’s legislature, acting pursuant to

the New Hampshire Constitution Part Second, Article 2, granting supreme legislative power within the state to the House and Senate, who with right to negate each other are granted power to make law through Part Second, Article 5. Additional authority regarding election law is vested in Part First, Article 11.

The legislature through a bicameral process passed law to create Chapter 62 (Exhibit 658:29 A). The bill was signed into law (by the Governor) on May 10, 2005, pursuant to New Hampshire Constitution Part Second, Article 44.

i) Adoption dates:

1. Chapter 111 (2005) adopted June 15, 2005
2. Chapter 151 (2003) adopted June 17, 2003
3. Chapter 28 (2003) adopted May 2, 2003

j) Effective dates:

1. Chapter 111 (2005) effective August 14, 2005
2. Chapter 151 (2003) effective January 1, 2004
3. Chapter 309 (1994) effective July 1, 2003

k) The changes made by Chapter 111 (2005) have not been enforced. The changes made by the laws of 2003, Chapters 151 and 28 have been enforced.

l) The changes affect the entire State of New Hampshire.

m) The purpose of the changes are as follows:

1. The purpose of the Chapter 111 (2005) change is to include laws more pertinent to the voting process to be posted at polling sites. The change removed statutes establishing rights not typically exercised at the polls on election day and added statutes that do address election day polling place activity.
2. The purpose of the Chapter 151 (2003) change is to keep the ballots posted in accordance with the changes the general court was making to the ballot law commission. Chapter 151 changed the ballot law commission from a three person panel appointed by various parties to a five person panel appointed

by the New Hampshire legislature. The changes to RSA 658:29 were simply part of the bigger change.

3. The purpose of the Chapter 28 (2003) change was to enable New Hampshire to start implementing the Help America Vote Act (HAVA). The Secretary of State of New Hampshire regarded the change to RSA 658:29 as housekeeping.
- n) These changes do not negatively target any protected class under section 5 of the Voting Rights Act of 1965. *42 U.S.C. 1973c*. They are expected to have neutral impact and do not meet the test of retrogression defined in *Reno v. Bossier Parish Sch. Bd*, 520 U.S. 471, 478 (1997). “(T)he ability of minority groups...to elect their choices to office” will not be diminished. *Beer v. U.S.*, 425 U.S. 130, 141 (1976).
- o) None known.
- p) RSA 658:29 was precleared through 1979 on June 22, 2004 by D.O.J. file numbers 2004-2563, 2004-2581 and 2004-2582. A copy of this preclearance is attached as Exhibit 658:29 E. This submission seeks preclearance of all subsequent changes.
- q) Not applicable as this is not a redistricting plan.
- r) Exhibit 658:29 F is a copy of a Press Release of this submission, its availability, and inviting comment to federal Department of Justice.

I expect the foregoing information is sufficient to enable the United States Attorney General to make the required determination pursuant to Section 5 of the Voting Rights Act. If further information is required or would be helpful, please contact me.

Very truly yours,

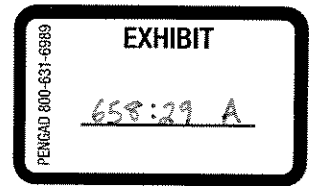


Orville B. Fitch II
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Civil Bureau
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CHAPTER 111

HB 362 – FINAL VERSION

2005 SESSION



05-0766

03/10

HOUSE BILL **362**

AN ACT relative to statutes to be posted at polling places.

SPONSORS: Rep. Dorsett, Graf 8; Rep. Drisko, Hills 5; Rep. Reeves, Hills 8

COMMITTEE: Election Law

ANALYSIS

This bill modifies the list of statutes that must be posted outside the guardrail in polling places.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

05-0766

03/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Five

AN ACT relative to statutes to be posted at polling places.

Be it Enacted by the Senate and House of Representatives in General Court convened:

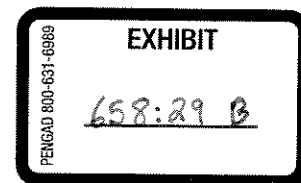
111:1 Election Day Morning Procedures; Statutes Posted. Amend RSA 658:29 to read as follows:

658:29 Statutes Posted. The secretary of state shall prepare and distribute copies of the following RSA sections which the selectmen shall post or cause to be posted outside the guardrail in the polling place ***at all elections***: RSA 654:7-a, RSA 654:7-b, ~~RSA 654:38, RSA 654:39, RSA 658:29~~; RSA 659:27, RSA 659:30, RSA 659:31, RSA 659:32, ***RSA 659:34, RSA 659:35, RSA 659:37, RSA 659:38, RSA 659:40, RSA 659:41***, RSA 659:103; ~~[RSA 665:17]~~ RSA 666:4, RSA 666:5, RSA 666:8, ~~RSA 666:12~~. In addition, the secretary of state shall include any other statutes or regulations that are required to be posted by state or federal law. The secretary of state may also include statutes or regulations that, in the secretary of state's judgment, would aid a voter in casting a vote or in contacting the appropriate official if the voter believes that his or her voting rights are being violated.

111:2 Effective Date. This act shall take effect 60 days after its passage.

(Approved: June 15, 2005)

(Effective Date: August 14, 2005)



CHAPTER 151

HB 693-FN - FINAL VERSION

20mar03... 0550h

05/22/03 1641s

2003 SESSION

03-0889

03/01

HOUSE BILL **693-FN**

AN ACT relative to the jurisdiction and constitution of the ballot law commission.

SPONSORS: Rep. Whalley, Belk 31; Rep. Giuda, Graf 13; Rep. Francoeur, Rock 85; Sen. Clegg, Dist 14; Sen. Boyce, Dist 4

COMMITTEE: Election Law

ANALYSIS

This bill changes the membership of the ballot law commission. This bill also modifies the jurisdiction and procedures of the ballot law commission and clarifies certain provisions regarding recounts.

Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

20mar03... 0550h

05/22/03 1641s

03-0889

03/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to the jurisdiction and constitution of the ballot law commission.

Be it Enacted by the Senate and House of Representatives in General Court convened:

151:1 Form of Candidate's Name on Ballot. Amend RSA 655:14-b, IV to read as follows:

IV. If the appropriate official with whom the declaration of candidacy, declaration of intent, primary petitions, or assents to candidacy are filed does not accept them and returns them to the candidate because in the opinion of the official they

do not conform to the provisions of this section, the candidate may appeal to the ballot law commission as provided in RSA ~~[665:6-b]~~ **665:9**.

151:2 Election Day Morning Procedures; Statutes Posted. Amend RSA 658:29 to read as follows:

658:29 Statutes Posted. The secretary of state shall prepare and distribute copies of the following RSA sections which the selectmen shall post or cause to be posted outside the guardrail in the polling place: RSA 654:7-a, RSA 654:7-b, RSA 654:38, RSA 654:39; RSA 658:29; RSA 659:27, RSA 659:30, RSA 659:31, RSA 659:32, RSA 659:103; **~~RSA 665:17~~**; RSA 666:4, RSA 666:5, RSA 666:8, RSA 666:12. In addition, the secretary of state shall include any other statutes or regulations that are required to be posted by state or federal law. The secretary of state may also include statutes or regulations that, in the secretary of state's judgment, would aid a voter in casting a vote or in contacting the appropriate official if the voter believes that his or her voting rights are being violated.

151:3 Number of Recounts. Amend RSA 660:3 to read as follows:

660:3 Number of Recounts. Any candidate for whom a vote was cast for any office at a state general election shall be entitled to apply for only one recount under this chapter, and the declaration made by the secretary of state under RSA 660:6 shall be final, subject to a change in the result following an appeal to the ballot law commission, as provided in RSA ~~[665:6, H]~~ **665:8, II**. *If more than one candidate for the same office in the same district applies for a recount under this chapter, and a recount is completed, such applications shall not result in a second recount.*

151:4 Declaration; Certificate. Amend RSA 660:6, I to read as follows:

I. If the recount shall show that some candidate other than the one declared elected upon the original canvass of votes has the greatest number of votes cast for the office, the secretary of state shall declare said candidate to be elected; and, unless the result is changed upon an appeal taken to the ballot law commission, as provided in RSA ~~[665:6, H]~~ **665:8, II**, such candidate shall be entitled to a certificate of election.

151:5 Declaration of Result, State Primary. Amend RSA 660:9 to read as follows:

660:9 Declaration of Result, State Primary. If the recount after a state primary election shall show that some candidate other than the one declared nominated upon the original canvass of votes has the greatest number of votes cast for the nomination, such candidate shall be declared nominated and shall be placed upon the official ballot at the following election unless appeal is taken to the ballot law commission in accordance with RSA ~~[665:4, I]~~ **665:6, I**. If the person who applied for the recount was thereby shown to be the one chosen as the candidate of ~~[his]~~ **the** party, ~~[he]~~ **the person** shall also have any fee paid returned.

151:6 Declaration of Result, Presidential Primary. Amend RSA 660:9-a to read as follows:

660:9-a Declaration of Result, Presidential Primary. If the recount after a presidential primary election shall show that the applying candidate qualified under RSA 659:93 for at least one more delegate than the original count indicated or that such candidate did qualify for federal election funding, such candidate shall receive such funding or shall be apportioned delegates to the national party convention in accordance with RSA 659:93 unless appeal is taken to the ballot law commission in accordance with RSA ~~[665:4, I]~~ **665:6, I**. If the person who applied for the recount was thereby shown to be entitled to federal funding or at least one more delegate under RSA 659:93, ~~[he]~~ **the person** shall also have any fee paid returned.

151:7 Complaints. Amend RSA 664:18, II(a) to read as follows:

(a) Issue an order requiring the violator to cease and desist from his **or her** violation. If the attorney general's order is not obeyed ~~[and no petition for review has been filed with the ballot law commission pursuant to RSA 665:7 within 3 days]~~, the attorney general or ~~[his]~~ designee may petition the superior court of the county in which the violation occurred for an order of enforcement.

151:8 Ballot Law Commission. RSA 665 is repealed and reenacted to read as follows:

CHAPTER 665

BALLOT LAW COMMISSION

General Provisions

665:1 Organization.

I. There shall be a ballot law commission consisting of 5 members. Two members shall be appointed by the speaker of the house of representatives, one from each of the 2 major political parties in the state based on votes cast for governor in the most recent state general election. Two members shall be appointed by the president of the senate, one from each of the 2 major political parties in the state based on votes cast for governor in the most recent state general election. One member shall be appointed by the governor with the advice and consent of the council, and shall be a person particularly qualified by experience in election procedure. No person shall be appointed to the commission who holds an elected office or who is an election official. The terms of all commissioners shall be for 4 years, except that the first appointments shall be as follows: the members appointed by the speaker of the house of representatives shall be appointed for terms of 2 years, the members appointed by the president of the senate shall be appointed for terms of 3 years, and the member appointed by the governor shall be appointed for a term of 4 years. A member may be re-appointed upon the expiration of his or her term. The members shall elect annually a chairperson from among the members. Members shall be appointed and terms of office shall expire on July 1. Vacancies shall be filled in the same manner for the unexpired term. The secretary of state shall be recording officer and clerk of the commission, but shall have no vote in its decisions.

II. There shall be 5 alternate members for the ballot law commission. Two alternate members shall be appointed by the speaker of the house of representatives, one from each of the 2 major political parties in the state based on votes cast for governor in the most recent state general election. Two alternate members shall be appointed by the president of the senate, one from each of the 2 major political parties in the state based on votes cast for governor in the most recent state general election. One alternate member shall be appointed by the governor with the advice and consent of the council, and shall be a person particularly qualified by experience in election procedure. The alternate members appointed by the speaker of the house of representatives and the president of the senate shall not be members of the general court. The terms of all alternate members shall be for 4 years, except that the first appointments shall be as follows: the alternate members appointed by the speaker of the house of representatives shall be appointed for terms of 2 years, the alternate members appointed by the president of the senate shall be appointed for terms of 3 years, and the alternate member appointed by the governor shall be appointed for a term of 4 years. The term of each new alternate member shall begin on July 1.

665:2 Alternate Member. There shall be 5 members present in person at all meetings. In case any member of the commission is absent from any meeting or unable to perform his or her duties or disqualifies himself or herself as commissioner, an alternate member who shall have the same qualifications as those of the commissioner whose place he or she is temporarily filling shall perform the duties of the commissioner.

665:3 Political Contributions Prohibited. No ballot law commission member shall make a contribution, as defined in RSA 664:2, to any candidate for office or political committee.

665:4 Compensation. The commissioners shall receive such compensation for their services as shall be approved by the governor and council. All bills for supplies required by the commission, necessary expenses of the commissioners, and fees of witnesses summoned by the commission shall be paid by the state upon the approval of the governor and council.

665:5 Hearing Date.

I. If necessary, the ballot law commission shall meet on the fourth Friday of September in each general election year in order to hear and decide:

- (a) Written objections filed pursuant to RSA 665:6, I and II; and
- (b) Written appeals filed pursuant to RSA 665:8, I.

II. The ballot law commission shall meet on the fourth Monday in November in each general election year. The commission shall hear and decide all pending matters concerning the election of persons to the New Hampshire general court. At this time, the commission may also act on any other pending matters.

III. The ballot law commission shall also meet at such other times as may be necessary as provided in RSA 655:31, RSA 665:8, II, and RSA 665:9.

Jurisdiction

665:6 General Duties. The ballot law commission shall have jurisdiction in the following cases:

I. When the nominations at the primary, as declared pursuant to RSA 659:86-89, are in apparent conformity with law, they shall be valid unless changed upon recount as provided by law or unless written objection to their conformity with the law shall be filed with the secretary of state within 3 days of the date of publication of the results of the primary by the secretary of state under RSA 659:89; or, if there is a recount for the office in question, within 3 days after the declaration of the secretary of state upon such recount. If written objections are filed, the secretary of state shall forthwith notify the ballot law commission of such filing. The ballot law commission shall then meet as provided in RSA 665:5 in order to hear and decide all the objections. The decision of the ballot law commission in such cases shall be final as to questions both of law and fact, and no court shall have jurisdiction to review such decision.

II. When nomination papers as provided in RSA 655:40-43 or the filling of vacancies in nominations occurring after the primary as provided in RSA 655:37-39 are in apparent conformity with law, they shall be valid unless written objection to their conformity with the law shall be filed with the secretary of state within the time limit provided in RSA 655:44 in the case of nominations by nomination papers or within 3 days of the date on which the appointment to fill a vacancy is filed with the secretary of state in the case of filling vacancies in nominations. If written objections are filed, the secretary of state shall forthwith notify the ballot law commission of the filing. The ballot law commission shall then meet as provided in RSA 665:5 in order to hear and decide all the objections. The decision of the ballot law commission in such case shall be final as to questions both of law and fact, and no court shall have jurisdiction to review such decision.

III. The jurisdiction vested in the ballot law commission under paragraphs I and II of this section shall be exclusive of all other remedies.

665:7 Filing Disputes. The ballot law commission shall hear and determine disputes arising over whether nomination papers or declarations of candidacy filed with the secretary of state conform with the law. The decision of the ballot law commission in such cases shall be final as to questions both of law and fact, and no court shall have jurisdiction to review such decision.

665:8 Appeals from Recounts. The ballot law commission shall hear and determine appeals from recounts in the following cases:

I. In case of a primary recount as provided in RSA 660:7-9-a, any person voted for upon the ballot of any party who, by declaration of the secretary of state upon recount, was not chosen as the candidate of such party may, within 3 days after said declaration, appeal therefrom to the ballot law commission by filing a written appeal with the secretary of state. The secretary of state shall forthwith notify the ballot law commission of the filing. The ballot law commission shall then meet as provided in RSA 665:5 in order to hear and decide the appeal and shall, on the appeal, consider and review all the rulings of the secretary of state on ballots protested during the recount. In no case may the ballot law commission order a second recount. If, after the review, it shall appear that the appellant was nominated, the commission shall change the declaration of the secretary of state and issue a certificate of nomination to the appellant. The decision of the ballot law commission in such cases shall be final as to questions both of law and fact, and no court shall have jurisdiction to review such decision. The jurisdiction vested in the commission under this paragraph shall be exclusive of all other remedies.

II. In case of an election recount as provided in RSA 660:1-6, any candidate who, by declaration of the secretary of state upon recount, did not have the greatest number of votes may, within 3 days after said declaration, appeal therefrom to the ballot law commission by filing his written appeal with the secretary of state. The ballot law commission shall forthwith meet, hear, and decide such appeal and shall, on such appeal, consider and review all the rulings of the secretary of state on ballots protested during the recount. In no case may the ballot law commission order a second recount. If, after the review, it shall appear that the appellant had the greatest number of votes, the commission shall change the declaration of the secretary of state and issue a certificate of such changed declaration to the appellant. The decision of the ballot law commission under this paragraph shall be subject to appeal as provided in RSA 665:16. The jurisdiction vested in the commission under this paragraph shall be exclusive of all other remedies. Nothing contained in this paragraph shall be construed to bar any person from recourse to the superior court on other questions, within the jurisdiction of such court, relating to the legality or regularity of general

elections or the results thereof.

665:9 Name on Ballot Disputes. The ballot law commission shall hear and determine all disputes arising over the form of his or her name which a candidate designates to be printed on the state primary and state general election ballot, as provided in RSA 655:14-b. The decision of the ballot law commission shall be final as to questions of both law and fact, and no court shall have jurisdiction to review the decision.

Procedures

665:10 Rules. The commission shall have power to adopt and publish rules to govern its proceedings and to regulate the mode and manner of all hearings or proceedings before it. Said rules shall be published and made available at the office of the secretary of state. All hearings shall be open to the public.

665:11 Evidence. In any hearing, the commission shall not be bound by the technical rules of evidence; but its findings must be supported by reliable, probative, and substantial evidence. A stenographic transcript shall be made of all oral testimony submitted to the commission; and such transcript together with the exhibits, ballots, and papers filed in the proceedings shall be the exclusive record for its decision. Decisions of the commission shall be made in writing and filed with the secretary of state. Reasonable notice of all hearings before the commission shall be given by the secretary of state by registered mail. In cases of recount appeals under RSA 665:8, notice shall be given to all candidates for the particular nomination or office in question. In cases arising under RSA 665:6, notice shall be given to the person or persons filing objections and to the candidate or candidates to whose nomination objections have been filed. At all hearings, interested parties may appear, present relevant evidence, be represented by counsel, and cross-examine opposing witnesses. The records of the commission in any proceeding before it shall be preserved for at least 6 months after the election in question.

665:12 Subpoenas; Oaths. The commission shall have power to subpoena witnesses and administer oaths in any proceeding before it and to compel by subpoena duces tecum the production of any checklist, tally sheet, or other document or thing of any kind whatever.

665:13 Witness Fees. Witnesses summoned before the commission shall be paid the same fees as witnesses summoned to appear before the superior court, and such summons issued by any justice of the peace shall have the same effect as though issued for appearance before such court.

665:14 Testimonial Privilege. No witness in any proceeding before the commission shall be excused from giving testimony or producing documentary evidence upon the ground that such testimony or documentary evidence could tend to incriminate the witness; but, if the witness claims immunity hereunder, no such testimony or documentary evidence shall be used against him or her in any criminal prosecution; nor shall the witness be liable to criminal prosecution for any matter disclosed thereby.

665:15 Perjury. No person testifying before the commission shall be exempt from prosecution or punishment for any perjury committed by him or her in his or her testimony.

Appeal

665:16 Appeal From Decisions. There may be an appeal to the supreme court from the decisions of the ballot law commission made under RSA 665:8, II as provided in this section and not otherwise. Such appeal shall be filed with the clerk of the supreme court within 5 days after the decision of the commission is filed with the secretary of state. Such appeal shall be limited to questions of law. Findings of fact made by the commission shall be final if supported by the requisite evidence. The supreme court may hold a special session to consider such appeal if it considers such action necessary. Appeals under this section shall be limited to contested elections for the offices of presidential elector, governor, councilor, and town and city or city ward offices voted for at general elections. No appeal may be made under this section in the cases of contested elections for the offices of United States senator, representative in congress, state senator, or representative to the general court in view of the constitutional provisions vesting in both houses of congress and both houses of the general court exclusive jurisdiction over the elections and qualifications of their respective members.

Enforcement

665:17 Enforcement of Orders of Ballot Law Commission. The superior court shall have jurisdiction in equity to enforce

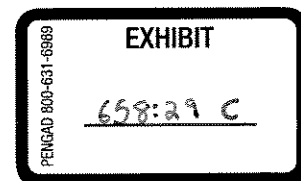
any order of the ballot law commission issued hereunder.

151:9 Applicability. The terms of all current members of the ballot law commission shall expire upon the effective date of this act. Rules of the ballot law commission shall remain in effect until amended, superseded, or expired.

151:10 Effective Date. This act shall take effect January 1, 2004.

(Approved: June 17, 2003)

(Effective Date: January 1, 2004)



CHAPTER 28

HB 126 - FINAL VERSION

06feb03...0024h

17apr03...1281eba

2003 SESSION

03-0306

03/09

HOUSE BILL **126**

AN ACT relative to posting statutes at polling places.

SPONSORS: Rep. Flanagan, Rock 78

COMMITTEE: Election Law

AMENDED ANALYSIS

This bill modifies and corrects references to the statutes that must be posted outside the guardrail in the polling place. This bill also authorizes the secretary of state to include additional statutes and regulations for posting.

Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struckthrough~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

06feb03...0024h

17apr03...1281eba

03-0306

03/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to posting statutes at polling places.

Be it Enacted by the Senate and House of Representatives in General Court convened:

28:1 Election Day Morning Procedures; Statutes Posted. Amend RSA 658:29 to read as follows:

658:29 Statutes Posted. The secretary of state shall prepare and distribute copies of the following RSA sections which the selectmen shall post or cause to be posted outside the guardrail in the polling place: RSA ~~654:7-a~~, ~~RSA 654:7-b~~, ~~RSA 654:38~~,

[39] *~~RSA 654:39~~*; RSA 658:29; RSA 659:27, [~~30, 31, 32, 103~~] *~~RSA 659:30, RSA 659:31, RSA 659:32, RSA 659:103~~*; [~~RSA 665:15~~] RSA 666:4, [~~5, 8, 9, 10, 11, 12~~] *~~RSA 666:5, RSA 666:8, RSA 666:12~~*. *In addition, the secretary of state shall include any other statutes or regulations that are required to be posted by state or federal law. The secretary of state may also include statutes or regulations that, in the secretary of state's judgment, would aid a voter in casting a vote or in contacting the appropriate official if the voter believes that his or her voting rights are being violated.*

28:2 Effective Date. This act shall take effect 60 days after its passage.

(Approved: May 2, 2003)

(Effective Date: July 1, 2003)

658:29 Statutes Posted. The secretary of state shall prepare and distribute copies of the following RSA sections which the selectmen shall post or cause to be posted outside the guardrail in the polling place: RSA 654:38, 39; RSA 658:29; RSA 659:27, 30, 31, 32, 103; RSA 665:15; RSA 666:4, 5, 8, 9, 10, 11, 12.

658:30 Delivery of Ballots to Election Officers. The city or town clerk shall deliver to the election officers before the opening of the polls on the day of the election the sealed packages of ballots in their possession together with filament tape or other similar tape with which to seal the ballots. Any city or town clerk who shall fail to deliver such material to the election officers as herein provided shall be guilty of a violation.

658:31 Counting Ballots. At the opening of the polls in each town or ward, the seal of the packages shall be publicly broken by the town or ward clerk; and the ballots shall be given to the ballot clerks and the ballots shall be examined and counted by the election officers.

658:32 Moderator's Certificate. The secretary of state shall prepare and distribute to each town or ward clerk 2 copies of the moderator's certificate. When the ballots are counted, the moderator shall certify thereon the total number of ballots received. One copy shall be retained by the moderator for his records; the other shall be certified by the clerk and forwarded to the secretary of state with the election returns.

658:33 Delivery of Ballots to Additional Polling Place. Before the polls are opened at the central polling place on the day of the general elections, the town clerk shall seal up the 2 duplicate copies of the checklist for each additional polling place lodged with him by the supervisors with a number of blank ballots equal to the number of voters on such checklist and 50 additional ballots. This package shall be prepared and sealed in the presence of the moderator and selectmen and be delivered forthwith to the assistant moderator of the additional polling place by 2 election officers designated by the moderator.

658:34 Pastors. If pasters are to be used at the election and have been delivered to the town or city clerk, the clerk shall deliver the pasters to the moderator who shall cause them to be pasted in the proper place on each ballot before it is handed to the voter.

658:35 Unofficial Ballots. If the official ballots have not been received at the polling place of any town or ward on the morning of election before the opening of the polls, it shall be the duty of the town or city clerk to cause unofficial ballots to be prepared, as far as possible, in form of the official ballots. Upon receipt of such unofficial ballots from a town or city clerk accompanied by a statement under oath that the same have been so prepared and that the official ballots have not been received, the moderator shall cause the unofficial ballots so substituted to be used in lieu of the official ballots.

658:36 Inspection of Ballot Box. At the opening of the polls, the ballot box shall be publicly opened and shown to be empty; and the election officers shall ascertain that fact by a personal examination of the box.

CHAPTER 659

ELECTION PROCEDURE

Hours of Polling

659:1 In Small Towns. At all state elections in a town with a population less than 700 according to the last federal census, the polls shall be open not less than 5 consecutive hours and so much longer as shall be necessary to afford

EXHIBIT

658:29 D

PENGAD 800-631-6989



U.S. Department of Justice

Civil Rights Division

EXHIBIT

658:29 E

PENGAD 800-631-6989

JDR:RPL:SMC:jdh
DJ 166-012-3
2004-2563
2004-2581
2004-2582

*Voting Section - NWB.
930 Pennsylvania Avenue, N.W.
Washington, DC 20530*

June 22, 2004

Orville B. Fitch II, Esq.
Assistant Attorney General
Civil Bureau
Department of Justice
33 Capitol Street
Concord, New Hampshire 03301-6397

Dear Mr. Fitch:

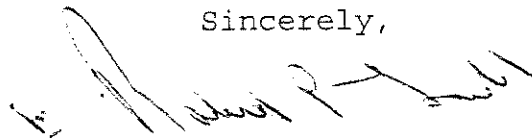
This refers to Session Law Chapter 436 (HB 575) (1979), which recodifies the election laws of the State of New Hampshire; Session Law Chapter 266 (HB 577) (2003), which implements the Help America Vote Act of 2002 (HAVA), 42 U.S.C. 15301-15545; and the adoption of formal administrative procedures for the resolution of election law complaints, including complaints filed under Title III of HAVA, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on June 7, 2004.

The Attorney General does not interpose any objection to the specified changes. Regarding Session Law Chapter 266, we note that the act specifically amends the following provisions of the State's election laws: RSA 655:19, II (Chapter 387 (1991)) (to provide for the deposit of certain candidate filing fees collected by the secretary of state into the election fund); RSA 655:19-c (Chapter 387 (1991)) (to provide for the deposit of any administrative assessments paid to the secretary of state into the election fund); RSA 664:3, I (Chapter 351 (1997)) (to provide for the deposit of political committee registration fees paid to the secretary of state into the election fund); RSA 664:21, II (Chapter 351 (1997)) (to provide for the deposit of any administrative fines for violations of the State's campaign finance laws into the election fund); and RSA 665:7 (Chapter 436 (1979)) (to authorize the Ballot Law Commission to hear and resolve complaints alleging violations of Title III of HAVA, as specified).

We note also that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41 and 51.43).

Session Law Chapter 266 includes provisions that are enabling in nature. Therefore, the State is not relieved of its responsibility to seek Section 5 preclearance of any changes affecting voting proposed to be implemented pursuant to this legislation (e.g., creation of a centralized statewide voter registration database by the secretary of state and guidelines issued by the secretary of state implementing the database). See 28 C.F.R. 51.15.

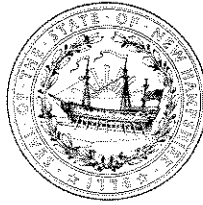
Sincerely,

A handwritten signature in dark ink, appearing to read "Joseph D. Rich", is written over a horizontal line.

Joseph D. Rich
Chief, Voting Section

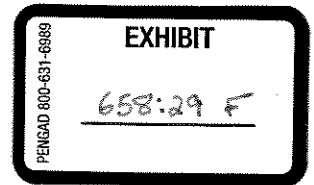
**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397



KELLY A. AYOTTE
ATTORNEY GENERAL

MICHAEL A. DELANEY
DEPUTY ATTORNEY GENERAL



News Release

RELEASED BY: Attorney General Kelly A. Ayotte

SUBJECT: Voting Rights Act – Submission of a request for preclearance of changes to New Hampshire Voting laws and procedures

DATE: June 10, 2005

RELEASE TIME: Immediate

Attorney General Kelly A. Ayotte announces the submission of requests for preclearance of changes made to the election laws in New Hampshire to the Federal Department of Justice. Preclearance submissions will address changes made to New Hampshire's election laws since jurisdictions in the State became subject to preclearance.

Ten New Hampshire towns are subject to section 5 of the federal Voting Rights Act. Changes to New Hampshire election laws that affect any of these ten towns must be submitted for review by either the Federal Department of Justice or the Federal District Court for Washington D.C. The federal Department of Justice will review the changes to New Hampshire's election laws to ensure that the changes do not have the effect of denying or abridging the right to vote on account of race or color, or membership in a language minority group. Changes to New Hampshire redistricting statutes have been submitted to, and approved by, the U.S. Justice Department since the 1980 census. Federal regulations require that the public be notified that the State has filed a request for preclearance and that the submission be available for public inspection.

Copies of each submission by the Attorney General for the State of New Hampshire are available at the office of the Attorney General at 33 Capitol Street, Concord New Hampshire, 03301. Each document will also be made available at the Attorney General's Office web site at:

<http://www.doj.nh.gov/elections/>

Attorney General Ayotte and the federal Department of Justice invite persons interested in this submission to submit comments and information, in writing or by telephone, to the Voting Section of the Federal Department of Justice, Civil Rights Division, at the earliest possible date to ensure that they may be considered during the preclearance review time period. Telephone 1-800-253-3931 or (202) 307-2385 or write Chief, Voting Section, Civil Rights Division, Room 7354 – NWB, Department of Justice, 950 Pennsylvania Ave., NW, Washington, DC 20530. The envelope and first page should be marked "Comment under section 5." Additional information on the Voting Rights Act and the preclearance process can be obtained at the web site of the Federal Department of Justice at:

<http://www.usdoj.gov/crt/voting/index.htm>

The New Hampshire Attorney General's Office Voting section can be contacted at:

<http://www.doj.nh.gov/elections/>
New Hampshire Toll Free 1-866-8868-3703
or 1-866-VOTER03
electionlaw@doj.nh.gov